

HOUSE BILL REPORT

HB 1556

As Reported By House Committee On:

Law & Justice

Title: An act relating to visitation.

Brief Description: Creating a presumption that visitation by relatives such as grandparents is in a child's best interests.

Sponsors: Representatives Wolfe, Boldt, Scott, Romero, B. Thomas, Johnson, Talcott, Delvin, Carrell, Campbell, Van Luven, Cooke, Dickerson, Kessler, Basich, Conway, Smith and Costa.

Brief History:

Committee Activity:

Law & Justice: 2/15/95, 2/28/95 [DPS].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Padden, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Appelwick, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Campbell; Carrell; Chappell; Cody; Lambert; Morris; Robertson; Sheahan; Smith; Thibaudeau and Veloria.

Minority Report: Do not pass. Signed by 1 member: Representative McMahan.

Staff: Pat Shelledy (786-7149).

Background: When a married couple with children obtain a divorce, the court may order visitation rights for a person other than a parent when visitation may be in the child's best interest. The third party may petition the court for visitation rights at any time. The court may modify an order granting or denying visitation rights whenever modification would be in the child's best interest.

Grandparents or other relatives are not granted special rights or consideration under the statute.

Summary of Substitute Bill: A person other than a parent may petition the court for visitation. The petition must be dismissed if the petitioner fails to prove by clear and

convincing evidence that the petitioner has a significant relationship with the child. If the court dismisses the petition, the court must order the petitioner to pay reasonable attorneys' fees and costs to the parent, parents, or other custodian who contests the petition. Visitation may be granted if the court finds that visitation is in the child's best interests.

Visitation with grandparents is presumed to be in the child's best interests when a significant relationship exists between the child and the grandparent. This presumption may be rebutted by the evidence. If the court finds that reasonable visitation would be in the child's best interests except for hostilities that exist between the parent and the grandparent, the court may refer the parties to mediation.

Any visitation granted must be incorporated into the parenting plan.

The court may consider a variety of factors when determining whether a petitioner's visitation is in the child's best interest. Those factors include the strength of the relationship between the child and the petitioner, the relationship between the parent or parents and petitioner, the nature and reason for the parent's objection to visitation by the petitioner, the effect that granting visitation with the petitioner will have on the relationship with the child and his or her parents, the residential schedule of the parents, and any criminal history and history of physical, sexual, or emotional abuse or neglect by the petitioner.

Substitute Bill Compared to Original Bill: The underlying bill is replaced. A threshold standing requirement for third parties is enacted that requires a third party to establish that a significant relationship exists between the petitioner and child. Failure to meet this requirement will result in dismissal of the action and imposition of reasonable attorneys' fees and costs. Grandparent visitation is presumed to be in the child's best interests if a significant relationship exists. The presumption may be rebutted. The same factors listed in the underlying bill are included to assist the court in determining whether visitation is in the child's best interests.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Many grandparents have essentially raised their grandchildren because the parents are too young, are drug addicted, or otherwise incapable of raising their children. When those parents get divorced, the grandparents may be completely cut off from the grandchildren because of hostilities of one or both of the parents towards the grandparents. This bill will make it a little easier for

grandparents to obtain court approval to continue to have contact or visitation with their grandchildren. The bill will not create an automatic right of grandparents to continue to have contact with their grandchildren.

Testimony Against: None.

Testified: Representative Wolfe, prime sponsor (pro); Gay Leeberg, citizen (pro); Muriel Campos, citizen (pro); Catherine Morgan, citizen (pro); Elizabeth Chambers, citizen (pro); and Gary Marsell, Washington Families for Noncustodial Rights (pro).